



## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

**[Docket No. OSHA-2013-0028]**

#### **Nationally Recognized Testing Laboratory Program; Stakeholder Meeting**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** OSHA invites interested parties to attend an informal stakeholder meeting concerning the Nationally Recognized Testing Laboratory (NRTL) Program. The meeting will focus on the following NRTL Program topics: use of the private sector to increase the efficiency of the NRTL Program; certification marks; factory inspections; field inspections; fees; and, at OSHA's discretion and as time permits, other topics raised by participants or OSHA staff. OSHA plans to use the information gathered at this meeting to explore potential updates to NRTL Program policies and regulations.

**DATES:** The stakeholder meeting will be held on October 22, 2014, from 9:00 a.m. to 5:00 p.m., e.t., in Washington, DC. Attendees should arrive at least 30 minutes early to allow time for security access. Security-access information is available at <http://www.dol.gov/dol/aboutdol/visit.htm>.

The deadline to register to attend the meeting as a presenter, participant, or an observer is [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If space remains after this deadline, OSHA may accept additional presenters, participants, and observers until the meeting is full. Those who submit their registrations after [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], may not receive confirmation of their attendance from OSHA.

The deadline to submit written comments, information, and documents in response to the meeting topics found in Appendix A of this notice, to submit suggestions for additional topics for the meeting, or to request an extension of time to make a submission is [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

All submissions must bear a postmark or provide other evidence of the submission date.

**ADDRESSES:**

1. Stakeholder Meeting

OSHA will hold the stakeholder meeting in the Francis Perkins Building, U.S. Department of Labor, at 200 Constitution Avenue NW., Washington, DC 20210. Information concerning the room number for the meeting will be available, no later than Wednesday, September 20, 2014, on OSHA's NRTL Program website at <http://www.osha.gov/nrtlpi>, in the docket for this meeting (Docket ID: OSHA-2013-0028, available at <http://www.regulations.gov>, and in the OSHA Docket Office). The nearest Metro station is Judiciary Square (Red Line), and private parking is available within walking distance of the building. Meeting attendees must have a valid form of government identification (e.g., driver's license), and will need to obtain a pass from our security desk to enter the building. Attendees should arrive at least 30 minutes early to allow time for security access. Security-access information is available at <http://www.dol.gov/dol/aboutdol/visit.htm>.

2. Registration to Attend

To register to attend as a presenter, during the presentation portion of the meeting, a participant, during the discussion portion of the meeting, or an observer of the meeting, you must use one of the three methods listed below. If you are registering as a presenter,

you must include your presentation topic(s) and a synopsis of your presentation. OSHA will include, in the docket for this meeting (Docket No. OSHA-2013-0028, available at <http://www.regulations.gov>, and the OSHA Docket Office), the presentation topic(s) and synopses, and any additional information (including any comments, information, documents, or suggestions for additional topics) that it receives with individual registrations.

All presentation topics must address the NRTL Program, and presentations that address those topics described in Appendix A of this notice will have priority. Once registered, OSHA will coordinate directly with presenters regarding the schedule of presentations. For additional information about registering, see the “Registration” section of this notice under SUPPLEMENTARY INFORMATION below.

- a. Electronically: Email your registration to attend to Ms. Kristin Webster at [webster.kristin@dol.gov](mailto:webster.kristin@dol.gov), and label the subject line of the email “NRTL October 22, 2014, Stakeholder Meeting Registration.”
- b. Facsimile: Fax your registration to attend to Ms. Webster at (202) 693-1644, and label it “NRTL October 22, 2014, Stakeholder Meeting Registration.”
- c. Regular or express mail, hand delivery, or messenger (courier) service: Send your registration to attend to: OSHA Directorate of Technical Support and Emergency Management, 200 Constitution Ave., NW., Room N-3655, Washington, DC 20210, Attention: Kristin Webster. On the outside of the envelope, write “NRTL October 22, 2014, Stakeholder Meeting Registration.” Note that security procedures may result in significant delays in receiving registrations by regular mail. If you have any questions about these instructions, contact Ms. Webster at (202) 693-2145.

### 3. Submitting Comments in Response to Listed Meeting Topics and Corresponding Questions, and Comments Suggesting Additional Topics

In addition to including comments, information, documents, or suggestions for additional topics in individual registrations (see Section 2 of this Notice, “Registration to Attend,” above), stakeholders and the general public may also submit written comments, information, and documents in response to the meeting topics and corresponding questions found in Appendix A of this notice, or suggestions for additional topics to address at the meeting, through one of the three methods listed below. For additional information about submissions to the docket, see the “Submissions to the Docket” section of this notice under SUPPLEMENTARY INFORMATION, below.

a. Electronically: Submit comments and any attachments electronically to Docket No. OSHA-2013-0028 at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

b. Facsimile: If submissions, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

c. Regular or express mail, hand delivery, or messenger (courier) service: Submit comments and any attachments to: OSHA Docket Office, Docket No. OHSA-2013-0028, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2350 (TTY number: (877) 889-5627). Note that security procedures may result in significant delays in receiving submissions and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by regular or

express mail, hand delivery, or messenger (courier) service. The hours of operation for the OSHA Docket Office are 8:15 a.m. - 4:45 p.m., e.t.

#### 4. Accessing the Docket

To read or download submissions or other material in the docket (e.g., public submissions of suggested topics), go to <http://www.regulations.gov> or to the OSHA Docket Office. You can reference all documents placed in the docket electronically at <http://www.regulations.gov> (Docket No. OSHA-2013-0028); however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, will be available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

**FOR FURTHER INFORMATION CONTACT:** Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3647, Washington, DC 20210; telephone: (202) 693-1999; email: [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

General and technical information: Contact Mr. David Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3655, Washington, DC 20210; telephone: (202) 693-2145; email: [johnson.david.w@dol.gov](mailto:johnson.david.w@dol.gov). OSHA's web

page includes information about the NRTL Program (see <http://www.osha.gov/otpc/nrtl/index.html>).

Copies of the Federal Register notice: Electronic copies of this Federal Register notice are available at <http://www.regulations.gov>. This Federal Register notice, as well as other relevant information, is also available on OSHA's web page at <http://www.osha.gov>.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### A. The Nationally Recognized Testing Laboratory Program

Several OSHA standards require an NRTL to approve equipment as safe if used in the workplace (see <https://www.osha.gov/dts/otpc/nrtl/1910refs.html> (listing specific references to OSHA standards requiring NRTL approval)). NRTLs are independent laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To obtain and retain OSHA recognition, an NRTL must meet the requirements in the NRTL Program regulations at 29 CFR 1910.7. Recognition is an acknowledgement by OSHA that an NRTL has the capability to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition. Recognition also allows employers to use products certified by that NRTL to meet those OSHA standards that require approval by an NRTL.

OSHA's NRTL Program recognition process involves a thorough analysis of an NRTL applicant's policies and procedures, and a comprehensive on-site review of the applicant's testing and certification facilities, to ensure that the applicant meets the

requirements of 29 CFR 1910.7. Once an NRTL obtains recognition from OSHA, OSHA's staff conducts on-site audits to ensure that existing NRTLs adequately perform their testing and certification activities and maintain the quality of their operations.

An NRTL's approval of a product generally consists of testing, inspection, and certification. Testing involves determining whether a sample or prototype of the product meets the applicable requirements of one or more specific consensus-based, U.S. product-safety test standards. If the product meets the requirements of the test standard, the NRTL then performs an initial inspection of the factory that manufactures, or will manufacture, the product to verify that the units of the product resulting from production runs are or will be in conformance with the test standard's requirements. Following a satisfactory initial inspection, the NRTL issues its certification, which provides assurance that the product conforms to the specific test standard(s). The NRTL also authorizes the manufacturer to apply the NRTL's mark to each unit of the manufactured product. After issuing its certification, the NRTL conducts periodic follow-up (i.e., quality-assurance and compliance) inspections of each manufacturing facility to provide assurance that the product currently manufactured at the facility and bearing the NRTL's mark is identical to the product that the NRTL tested, initially inspected, and certified. For more information about the NRTL Program, see the NRTL Program Web site ([www.osha.gov/dts/otpc/nrtl/index.html](http://www.osha.gov/dts/otpc/nrtl/index.html)).

#### B. Events Leading to This Stakeholder Meeting

In 2012, the Government Accountability Office (GAO) performed a study of OSHA's NRTL Program to examine the program's recognition process. GAO published its findings and recommendations from that study in December 2012, in a report entitled,

Product Safety Laboratories: OSHA's Accreditation Process Needs Reexamination

(Exhibit 14-1 – GAO Report GAO-13-88). In the report, GAO recommended that OSHA review its current structure and procedures for recognizing NRTLs and implement alternatives that would maintain effectiveness while improving timeliness. More specifically, GAO suggested that OSHA explore various structural approaches for making decisions regarding recognition, including use of private accreditation bodies and/or contractors. GAO also recommended that OSHA review its current regulations and procedures to identify changes to existing regulations and program modifications, including increased alignment with international standards on accreditation.

As a result of GAO's report, in early 2013, OSHA staff began reexamining several aspects of the NRTL Program to determine how it could improve program operations without compromising the Agency's mission to protect worker safety and health. On March 15, 2013, OSHA held an informal stakeholder meeting to help OSHA staff assess the NRTL Program and make efforts to increase program effectiveness. At the March meeting, OSHA discussed and received feedback from stakeholders on several potential NRTL Program policy, procedure, and guideline changes.

Following the March 15 stakeholder meeting, OSHA began investigating the possibility of aligning the NRTL Program requirements with ISO/IEC 17025:2005 and ISO/IEC 17065:2012. As part of this effort, OSHA may propose developing NRTL Program-specific guidance that would permit NRTLs to obtain and maintain recognition under the NRTL Program regulation, 29 CFR 1910.7, by following specific provisions in ISO/IEC 17025 and ISO/IEC 17065 in conjunction with OSHA guidance that tailors the



general criteria found in ISO/IEC 17025 and ISO/IEC 17065 to the specific NRTL Program requirements for testing and certification activities.

As part of its investigation into aligning the NRTL Program requirements with international standards, OSHA also is investigating the use of the private sector to improve the timeliness and efficiency of the NRTL recognition process, while still maintaining the integrity of the program. As part of its effort to explore the use of the private sector for this purpose, OSHA is holding this stakeholder meeting to gather more information on the topic. Moreover, after reviewing the NRTL Program requirements as part of its alignment investigation, OSHA developed potential modifications to existing policies and regulatory requirements with respect to certification marks, factory inspections, field inspections, and fees. OSHA also seeks to gather input on these potential policy and regulatory changes through this stakeholder meeting.

The stakeholder meeting will consist of stakeholder presentations concerning the topics described in Appendix A of this notice, and, at OSHA's discretion, other NRTL Program-related topics. A facilitated discussion will follow the presentations. OSHA determined that stakeholder presentations, in conjunction with informal discussion on specific topics related to the NRTL Program, will be beneficial to OSHA's further deliberations on developing, updating, and proposing new or revised NRTL Program policies, procedures, regulations, or guidelines.

## **II. Stakeholder Meeting**

The stakeholder meeting will last approximately eight hours. The first part of the meeting will consist of stakeholder presentations on those topics described in Appendix A of this notice, and, at OSHA's discretion, other suggested topics related to the NRTL

Program. Each presenter will have 10-20 minutes to make a presentation, depending on the number of people who request to make a presentation. A short period of 5-10 minutes will follow each presentation so that OSHA, other presenters, and registered participants can ask questions of, and request clarification from, the presenter. OSHA is limiting participation in these periods to OSHA and registered presenters and participants. Presenters may, at their discretion, submit written copies of their presentation to OSHA, either during the meeting or in written comments submitted to the docket in accordance with the procedures outlined in this notice. OSHA believes that having access to written copies of the presentations will facilitate its decisionmaking. OSHA will include copies of the presentations in the docket for this meeting (Docket No. OSHA-2013-0028, available at <http://www.regulations.gov> and the OSHA Docket Office).

OSHA is limiting the meeting to approximately 20 presentations, but may accommodate more presentations at its discretion and as time permits. OSHA will try to accommodate all presenters who respond in a timely fashion. To ensure all views are represented, OSHA encourages individuals and groups having similar interests to consolidate their information and present this information through a single representative. OSHA will try to accommodate, as space permits, all those who would like to observe the presentations.

If time permits, OSHA may hold an open-session portion of the meeting with facilitated discussion. OSHA is limiting the open-session portion of the meeting to approximately 30 participants. OSHA will try to accommodate all attendees who would like to participate. To ensure all views are represented, OSHA encourages individuals

and groups having similar interests to consolidate their information and participate through a single representative. OSHA staff will be present to take part in the discussions.

The topics for the stakeholder meeting and related questions about these topics are in Appendix A of this notice. OSHA believes the discussion and related questions in Appendix A will provide the Agency with useful information, and will facilitate discussion during the meeting. If stakeholders and the public would like to provide input on the meeting topics and their corresponding questions prior to the stakeholder meeting, OSHA welcomes any available data, documentation, information, or comments related to those topics that might help facilitate the meeting. Stakeholders and the members of the public chosen to make presentations at the meeting and/or to participate during the open-session portion of the meeting, will also have an opportunity to provide information and comment on these topics and questions during the meeting. Any stakeholder or member of the public who chooses to provide data, documentation, information, or comments prior to the meeting should: identify any organization they are representing at the meeting; their position within that organization; and describe any qualifications they have that are relevant to their submission.

OSHA will provide the public with a copy of the final meeting agenda and any specific documents OSHA will use at the stakeholder meeting no later than five days prior to the meeting. These documents also will be available by that date at OSHA's NRTL Program website (<http://www.osha.gov/nrtlpi>) and in the docket for this notice (Docket No. OSHA-2013-0028, available at <http://www.regulations.gov> and the OSHA Docket Office).

OSHA will prepare a full transcript of the meeting and post this transcript on the NRTL Program website (<http://www.osha.gov/nrtlpi>) and in the docket (Docket No. OSHA-2013-0028, available at <http://www.regulations.gov> and the OSHA Docket Office).

### **III. Registration**

Register to attend as a presenter, participant, or an observer in the stakeholder meeting by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], using one of the three methods described above in the “Registration to Attend” section of this notice under ADDRESSES. OSHA will accommodate attendees who do not register for the meeting if space permits. However, those who would like to make a presentation during the meeting must register as presenters and submit a copy of their presentation topic(s) and a synopsis of their presentations. Additionally, those who would like to participate during the open-session portion of the meeting must register as participants. OSHA will consider as an observer any attendee who does not register as a presenter or participant.

OSHA is limiting the number of attendees who may present or participate in the meeting; therefore, OSHA will grant priority to current or former NRTLs, and current NRTL applicants. Only one representative from each organization may make a presentation, and only one representative from each organization may attend as a participant; however, each organization may register one representative to be a presenter and a different representative to be a participant. Each organization may have more than one observer in attendance (space permitting).

Any individual or entity not affiliated with a current or former NRTL, or a current NRTL applicant, who would like to present and/or participate in the meeting must submit, with their registration to attend, a written statement that indicates their interest in the NRTL Program and the specific topic(s) they would like to present or discuss. If they would like to make a presentation, they must also submit a synopsis of their presentation. OSHA will enter these presentations and synopses into the docket for the meeting (Docket No. OSHA-2013-0028, available at <http://www.regulations.gov> and the OSHA Docket Office). However, if OSHA receives these documents after [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] (the last day to timely submit topics), OSHA may not review the documents for the purpose of generating a meeting agenda (see the “Submissions to the Docket” section below).

Registrants not affiliated with a current or former NRTL, or with a current NRTL applicant, who would like to present a specific topic during the first portion of the meeting, and/or participate in the discussion during the open-session portion of the meeting, will be chosen as presenters and/or participants over similar attendees who would like to address broad topics only. OSHA cannot guarantee presenter and/or participation status to all those who register as presenters and/or participants; however, it will make every effort to accommodate registrants who want to present and/or participate, ensure a fair representation of interests, and facilitate the presentation of diverse viewpoints.

In registering to participate during the open-session portion of the meeting, current or former NRTLs, and current NRTL applicants, need not submit statements indicating their interest in the NRTL Program and the specific topic(s) they would like to discuss.

However, if they would like to make a presentation during the first portion of the meeting, they must submit their presentation topic(s) and a synopsis of their presentation. Additionally, these organizations are welcome to submit, in writing, suggestions for additional topics for discussion (pursuant to the procedures described under ADDRESSES above and in the “Submissions to the Docket” section below).

When registering, please provide the following information:

- a. Name, contact address, daytime phone, fax, and email address;
- b. The organization for which you work or represent, if any;
- c. Whether you are employed at, affiliated with, or represent a current or former NRTL or a current NRTL applicant;
- d. Whether you are registering to be a presenter during the presentation portion of the meeting and/or a participant during the open-session portion of the meeting, or an observer;
- e. If you are registering to be a presenter during the presentation portion of the meeting, provide your presentation topic(s) and a synopsis of your presentation; and
- f. If you are not affiliated with a current or former NRTL, or current NRTL applicant, and would like to make a presentation during the presentation portion of the meeting and/or be a participant during the open-session portion of the meeting, provide a written statement that indicates your interest in the NRTL Program and the specific topic(s) you would like to present and/or discuss.

Additionally, if you are registering to be a presenter, provide a synopsis of your presentation.

#### 4. Submissions to the Docket

You must make all submissions to the docket using any of the methods listed above under ADDRESSES, and the submission must include the Agency name (i.e., OSHA) and the OSHA docket number (OSHA-2013-0028). You must make submissions to the docket by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

Note that a submission to the docket does not constitute registration to attend the meeting as a presenter, participant, or observer. To register as a presenter, participant, or observer, you must follow the procedures described above in the section of this notice titled “Registration” under SUPPLEMENTARY INFORMATION.

OSHA will use the submissions it timely receives to establish the meeting agenda, which it will release no later than five days prior to the meeting on its NRTL Program website (<http://www.osha.gov/nrtlpi>) and in the docket for this notice (Docket No. OSHA-2013-0028, available at <http://www.regulations.gov> and the OSHA Docket Office). OSHA will consider submissions made after [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] to be untimely and, therefore, may not use such submissions when establishing the meeting agenda.

OSHA will place all submissions, including any personal information, in the docket without revision, and these submissions and other material will be available online at <http://www.regulations.gov> and in the OSHA Docket Office (as described above in “Accessing the Docket” section under ADDRESSES). Therefore, OSHA cautions commenters about submitting statements they do not want made public, or submissions

that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

#### **IV. Authority and Signature**

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 20, 2014.

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**David Michaels,**

Assistant Secretary of Labor for Occupational Safety and Health.

**BILLING CODE: 4510-26-P**



## **Appendix A**

### **Topics for Informal Stakeholder Meeting Concerning the Nationally Recognized Testing Laboratory Program**

OSHA presents here a discussion of the topics for the October 22, 2014, NRTL Program informal stakeholder meeting. OSHA believes the discussion and related questions presented here will assist commenters and presenters in narrowing their comments and presentations to topics about which OSHA has an interest in obtaining information, and facilitate discussion during the open-session portion of the meeting. OSHA numbered the individual topics below, and asks that commenters clearly delineate which number(s) (i.e., topics) each of their comments or other submissions is addressing.

#### **A. Options for Using the Private Sector to Increase the Efficiency of the NRTL Program**

OSHA is considering using private-sector accreditation bodies and/or independent contractors to increase the efficiency of the NRTL Program. As a result, OSHA is considering a number of different models to serve this purpose. This subsection of topics presents these models in general terms, and asks specific questions about each of these approaches.

OSHA is not endorsing any of these models at this time. Moreover, OSHA is open to considering other options or models for revising NRTL Program policies and regulations. OSHA invites stakeholders to provide any additional options, models, feedback, or suggestions that may assist OSHA in its decisionmaking.

1. OSHA is considering a model that uses private-sector accreditation as evidence of conformance to ISO/IEC 17025 and ISO/IEC 17065 to facilitate processing

applications and performing on-site assessments. Although, OSHA would continue to conduct on-site assessments to NRTL Program-specific requirements, inclusion of accreditations may facilitate validation of generic ISO/IEC 17025 and ISO/IEC 17065 requirements. Under this approach, OSHA would deem NRTLs in compliance with the NRTL Program regulation, 29 CFR 1910.7, if along with OSHA's validation of compliance with NRTL Program specific requirements, a private-sector accreditation body accredits the NRTL headquarters to the appropriate scope of accreditation for ISO/IEC 17025 and ISO/IEC 17065, and the NRTL maintains this accreditation. In addition, under this approach, all of the NRTL's sites would require independent accreditation to ISO/IEC 17025.

- a. Are you in favor of this approach? Please explain.
- b. What are the benefits to this approach?
- c. What are the weaknesses to this approach?
- d. What resources and/or costs would be associated with this approach?  
Please explain.
- e. Would there be any cost savings associated with this approach? Please explain.
- f. As part of this approach, NRTLs would need to provide complete audit reports and final corrective actions to OSHA during OSHA's on-site assessments or upon request by OSHA. Note that such information could be subject to release by OSHA under the Freedom of Information Act (FOIA). Please explain the impact of this part of the approach.

2. OSHA is considering a model under which it makes use of one or more private-sector accreditation bodies as part of the NRTL recognition process. Under this approach, OSHA would delegate, to one or more private-sector accreditation bodies, the responsibility to assess NRTLs for recognition and perform NRTL Program on-site assessments. OSHA would maintain the official list of recognized NRTLs and still retain the authority to approve, deny, amend, or revoke NRTL recognition.
  - a. Are you in favor of this approach? Please explain.
  - b. What are the benefits to this approach?
  - c. What are the weaknesses to this approach?
  - d. What resources and/or costs would be associated with this approach?  
Please explain.
  - e. Would there be any cost savings associated with this approach? Please explain.
  - f. Are you in favor of using private-sector accreditation bodies in a manner not described in this approach? Please explain.
3. OSHA is considering a model under which it contracts with independent technical experts to perform specific functions for the NRTL Program. For example, OSHA may use independent technical experts to assess the technical requirements of NRTLs or applicants for purposes of NRTL applications and/or NRTL Program on-site assessments. OSHA would continue to perform all other aspects of the NRTL Program, and still would make all decisions regarding recognition.
  - a. Are you in favor of this approach? Please explain.

- b. What are the benefits to this approach?
- c. What are the weaknesses to this approach?
- d. What resources and/or costs would be associated with this approach?

Please explain.

- e. Would there be any cost savings associated with this approach? Please explain.
- f. Are you in favor of using independent technical experts in a manner not described in this approach? Please explain.

4. Under 29 CFR 1910.7, an NRTL must have the capability to perform both testing and certification functions. OSHA is considering a modification to the regulation that separates these two functions, thus allowing organizations to apply to the NRTL Program to perform testing only, certification only, or both testing and certification. If OSHA revises the regulation in this manner, it would also plan to use ISO/IEC 17025 and NRTL Program-specific policies to evaluate testing organizations, and ISO/IEC 17065 and NRTL Program-specific policies to evaluate certification organizations. Under this approach, OSHA-recognized testing organizations would submit evaluation and testing results to OSHA-recognized certification organizations, and these organizations would authorize the certification of the product and conduct factory-surveillance on-site assessments.

- a. Are you in favor of this approach? Please explain.
- b. What are the benefits to this approach?
- c. What are the weaknesses to this approach?

- d. What resources and/or costs would be associated with this approach?  
Please explain.
- e. Would there be any cost savings associated with this approach? Please explain.
- f. If OSHA were to revise its regulation as described above, OSHA also may revise its regulation to require certification organizations authorized under the NRTL Program to accept test results from any testing organization authorized under the NRTL Program. Are you in favor of such a requirement? If OSHA had to adopt this requirement to successfully implement this model, would you be in favor of this requirement? Please explain.

#### B. Certification Marks for the NRTL Program

Under OSHA's current policy regarding certification marks, an NRTL is in compliance with the NRTL Program regulation, 29 CFR 1910.7, if it has a registered certification mark issued by the U.S. Patent and Trademark Office (USPTO) or by a national or international body under a registration system that requires ownership of the mark(s) and that is equivalent to the USPTO system of registration. Additionally, the NRTL can only use this certification mark(s) for its NRTL activities. OSHA is considering revising its policy to better account for ownership and use of certification marks for NRTL activities.

- 5. OSHA is considering making the following policy change: If an entity wholly owned by an NRTL owns a certification mark, and the NRTL uses that mark for

its NRTL certifications, the entity owned by the NRTL could no longer use the mark for any purpose, including marketing or advertisement.

- a. What impact would this policy change have on NRTLs? Please explain.
- b. What resources and/or costs would be associated with this approach?

Please explain.

6. OSHA is considering making the following policy change: Any mark owned by an NRTL, and used for its NRTL certifications, would need to be clearly distinguishable from the mark of another entity owned or affiliated with the NRTL (e.g., a mark used by an entity that is not a recognized NRTL would need to be clearly distinguishable from the mark used by the entity recognized as an NRTL, and a product certified by a non-NRTL could not appear to be a product certified by the NRTL).

- a. What impact would this policy change have on NRTLs? Please explain.
- b. What resources and/or costs would be associated with this approach?

Please explain.

7. Under current OSHA policy, NRTLs need not add a unique identifier to their certification mark to signify work conducted under the NRTL Program and compliance to particular product-safety test standards (i.e., similar to the “C” mark for Canada). Some NRTLs voluntarily include the acronym "NRTL" with their regular certification marks. Under a policy change OSHA is considering, each NRTL would need to add a unique identifier to its certification mark to signify testing and certification conducted under the NRTL Program.

- a. Are you in favor of requiring the NRTLs to add a unique identifier to their certification mark? Please explain.
- b. What resources and/or costs would be associated with this approach?  
Please explain.
- c. OSHA is considering delaying the effective date of this policy change for 2 years after it finalizes the policy change. Are you in favor of delaying the effective date of this policy change? If so, are you in favor of a 2 year delay? Please explain.

### C. Factory Inspections

8. Under OSHA's current policy for factory inspections (OSHA Instruction CPL 01-00-003, NRTL Program Policies, Procedures, and Guidelines, App. C.III.A, "NRTL Follow-up Inspections at Manufacturing Facilities, Frequency of Inspections" (Dec. 2, 1999)), NRTLs need to perform more frequent inspections at facilities where heightened safety concerns exist regarding the manufacture of products certified by the NRTLs. As outlined in the existing policy, an NRTL needs to perform no fewer than four (4) inspections per year at facilities where heightened safety concerns exist, but needs to perform no fewer than two (2) inspections per year at facilities where heightened safety concerns or similar situations do not exist. OSHA is considering modifying its policy regarding the frequency of inspections to allow each NRTL to adopt its own risk-based approach<sup>1</sup> to determine the frequency with which it performs factory inspections.

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<sup>1</sup>See, for example, ISO 31000:2009; Risk management - Principles and guidelines on implementation; International Organization for Standardization.

- a. Should OSHA allow each NRTL to adopt its own risk-based approach to determine the frequency with which it performs factory inspections or should OSHA keep its current policy in which NRTLs must perform a minimum number of inspections per year? Please explain.
  - b. What resources and/or costs would be associated with allowing NRTLs to adopt their own risk-based approach to determine the frequency with which they perform factory inspections? Please explain.
- 9. Under OSHA's current policy for factory inspections (OSHA Instruction CPL 01-00-003, NRTL Program Policies, Procedures, and Guidelines, App. C.III.B, "NRTL Follow-up Inspections at Manufacturing Facilities, Policies and Procedures for Inspections" (Dec. 2, 1999)), NRTLs need to determine the specific activities to undertake in performing each inspection, and document these activities. However, follow-up inspections activities (but not necessarily every inspection) need to at least include or address activities specified in the policy. OSHA is considering modifying its policy regarding factory inspections, and seeks input on the following questions:
  - a. Are you in favor of OSHA standardizing inspection content and processes for factory inspections? For example, should OSHA specify the activities NRTLs need to perform during each factory inspection and delineate how documentation should occur? Please explain.
  - b. Are you in favor of OSHA developing forms, with stakeholder involvement, for NRTLs to use during factoring inspections? Please explain.



- c. What resources and/or costs would be associated with the modifications addressed in questions (a)-(c) above for your organization? Please explain.

D. Field Inspections

10. Under 29 CFR 1910.7(b)(2)(iii), an NRTL must conduct field inspections to monitor and assure proper use of its identifying mark or labels on products. OSHA is considering eliminating this requirement. Are you in favor of OSHA eliminating this requirement? Please explain.

E. Fees

11. OSHA currently requires NRTLs to pay all NRTL Program fees in U.S. dollars by check or money order. OSHA is considering allowing NRTLs to make online electronic payments only (e.g., through credit card or ACH), and disallowing payments made by check or money order.
- a. What impact would such a change have? Please explain
- b. What resources and/or costs would be associated with this approach? Please explain.

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